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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte THOMAS I. ROGAN and BARBARA REID MACY

Appeal 2007-2879
Application 09/924,372
Technology Center 3600

Decided: March 24, 2008

Before MURRIEL E. CRAWFORD, LINDA E. HORNER, and DAVID B.
WALKER, *Administrative Patent Judges*.

HORNER, *Administrative Patent Judge*.

DECISION ON REQUEST FOR REHEARING

STATEMENT OF THE CASE

Appellants have filed a request for rehearing under 37 C.F.R. § 41.52 requesting that we reconsider our decision of November 16, 2007 (“Decision”), wherein we affirmed the rejections of claims 1-23 under 35 U.S.C. § 103(a). Appellants argue that the Decision “is based upon an incorrect assumption

regarding the teachings of the *Savino* reference, which led to an incorrect conclusion regarding the issue whether the *Savino* reference teaches away from the Examiner's proposed modification of that reference" (Request for Rehearing 1) (Emphasis in original).

THE INVENTION

Appellants' claimed invention is directed to a method of electronically processing transactions and more specifically to a transaction identifier that links information regarding the various stages of the transaction.

ANALYSIS

In our Decision, we found Appellants' contention, that Savino expressly teaches *only* customer-inputted information is linked to the barcode, unpersuasive because (1) Savino teaches that the shipping date is linked to the bar code and shipping date information is generally not supplied by the customer, and (2) nowhere in Savino is there any disclosure that linking status information is prohibited (Decision 8). Appellants request that we reconsider and change our decision because (1) the proper interpretation of Savino "is that shipping date information is based upon the customer's entry of information" (Request for Rehearing 2), and (2) Savino "prohibit[s] (and a bare minimum – discourage[s]) any information being linked to the barcode other than the information provided by the customer" (Request for Rehearing 4). We disagree on both points.

Savino is directed to coordinating shipping and receiving information between a customer and supplier and more specifically to a method of coordinating shipping and receiving information to overcome the drawbacks associated with a

supplier *re-entering* purchase order information (Decision 4, FF 1). Accordingly, Savino teaches that the supplier, upon receiving purchase order information and an authorization command, assigns a bar code and generates a bar code shipping label (Decision 4, FF 3). The bar code links to a plurality of predetermined relevant purchase and shipping information entered by the customer and associated with a purchase order (Decision 4, FF 4). Although Savino discloses that the bar code may be scanned by the supplier or customer to access information regarding the purchase (Decision 4, FF 5), Savino is silent regarding updating status information for subsequent phases of the transaction or linking the status information to the bar code (Decision 4, FF 7).

In our Decision, we found that although Savino is silent regarding status information and/or linking status information to the bar code, Savino does not teach away from linking status information and/or information entered by someone other than the customer to the bar code (Decision 8). We based our finding in part on the fact that Savino teaches that the predetermined relevant purchase and shipping information includes, *inter alia*, shipping date, which is generally not provided by the customer in a purchase order (*Id.*). Appellants contend that Savino must be interpreted to teach that the shipping date is entered by the customer, because Savino teaches notifying customers which of the initially selected items are ready for immediate shipment and receiving authorization from the customer for immediate shipment of the selected part (Request for Rehearing 2-3). We decline to adopt this narrow interpretation of Savino. Even if the items are in stock and ready for immediate shipment and the customer sends authorization to the

supplier for immediate shipment, this does not necessarily mean that the supplier will process the authorization and customer order immediately and ship the items the same day. We read the “shipping date” in Savino to mean the date the item is shipped by the supplier, and not the date the customer authorizes the supplier to ship the item. The customer has no way of knowing what the shipping date of the order will be, because shipment is under the control of the supplier.

The Appellants also point to column 4, lines 45-46 of Savino in support of their reading of the reference (Request for Rehearing 3). However, although the Savino reference states that “[o]ne advantage of the system embodying the present invention is that purchase and shipping information is only entered by the customer in order to ensure reliability of order information,” when read in view of the reference as a whole, it is clear that Savino is referring to customer and shipping information which is part of a customer purchase order and which is normally re-entered by the supplier and does not refer to *all* shipping information. Therefore, Savino does not teach away from linking status information (which is not available to the customer at the time of purchase) to the bar code.

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DECISION

Accordingly, while we have granted Appellants' request for rehearing to the extent that we have reconsidered our decision, the request is denied with respect to making any changes in the decision.

DENIED

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